

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Into the Operation of Interruptible Load Programs Offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the Effect of These Programs on Energy Prices, Other Demand Responsiveness Programs, and the Reliability of the Electric System.

Rulemaking 00-10-002
(Filed October 5, 2000)

**COMMENTS OF THE CALIFORNIA ENERGY COMMISSION
ON THE DRAFT DECISION OF COMMISSIONER WOOD
MODIFYING THE PRIORITY SYSTEM FOR ROTATING OUTAGES**

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Pursuant to Rule 77 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the California Energy Commission (CEC) submits these comments on the Draft Decision of Commissioner Wood (Decision).

I. BACKGROUND

The CEC participated in the technical workshops in this proceeding and also filed comments on both the Commissions' Energy Division Report and Commissioner Wood's earlier draft decision. In response to the Commission's express invitation, and in recognition of the CEC's responsibilities under Section

25216(a) of the Public Resources Code,¹ the CEC filed additional comments in this proceeding on fossil fuels and rotating outages on April 25, 2001.

The CEC has urged, and continues to urge, that the infrastructure used to produce gasoline, diesel, and aviation fuels for the citizens and workers of California be exempt from forced outages.

Converting crude oil to usable fuels relies on a complex infrastructure which begins at the point of production, continues through pipelines which transport crude oil to refineries, and ends once pipelines have transported refined products to their ultimate end use or storage.² Unlike most other industries and manufacturing operations, the petroleum industry cannot withstand electricity curtailments to any link in this process without suffering relatively long-term effects and, in some instances, ripple effects.

Refineries are the most sensitive to curtailments. A disruption lasting just a minute can force a refinery into total shutdown for up to three weeks.³

Outages experienced either upstream or downstream in the network can also affect operations elsewhere in that network. For example, in January 2001,

¹ This section mandates that the CEC undertake a continuing assessment of trends in the consumption of energy and analyze the social, economic and environmental consequences of these trends.

² Transcript of March 22, 2001, testimony of Evelyn Kahl, p. 285.

³ Ibid.

numerous electricity curtailments prevented pipeline companies from delivering finished gasoline and diesel fuel to storage facilities. As a consequence, refinery facilities were forced to halt operations because they had no more room to store the finished product on site.

In Decision (D.)01-01-056, as a result of CEC analysis, the Commission recognized that the repeated curtailments of electricity supplies to the state's fossil fuel infrastructure threatened the public health and safety of Californians. That Decision stated that "public health and safety were at risk due to the effect on the availability and price of all petroleum products as a result of recent curtailments of electricity..."⁴

II. "ESSENTIAL USE" STATUS FOR ALL FOSSIL FUELS IS NECESSARY TO PROTECT THE PUBLIC HEALTH AND WELFARE.

The availability of gasoline, diesel and aviation fuels is critical to the public health and safety. Police vehicles, ambulances, fire trucks, military services, and other critical vehicles completely rely on these fuels. *Virtually all of those customers currently designated "essential use" are not only consumers of electricity, but of fossil fuels, as well.* Without refined fossil fuels, the ability of essential-use customers to perform their critical functions would be seriously impaired, if not halted.

⁴ D.01-04-006 at pp. 50-51.

The supply-demand balance of fossil fuel in California is extremely precarious. The shutdown of just a single refinery can lead to a supply shortage and a corresponding price spike.⁵ Price spikes can last up to four weeks.

Short-term options to address an insufficient supply of critical fuels are limited. For example, while storage of fuels has a superficial appeal, storage capacity statewide is inadequate to meet a prolonged shortfall. There are also alternatives to fossil fuels for transportation, but these are generally unsuitable for “first response” emergency vehicles.⁶

Increasing the supply of critical fuels from out-of-state or even out-of-country producers is also not a short-term option. When the state mandated California-only fuel, it limited the universe of suppliers who would be interested in producing this fuel. There are only thirteen refineries in the state that produce fuel for the California market and only a few distant refineries capable of making marginal supplies.

These are among the reasons why the Commission has previously recognized that limiting the availability of petroleum products poses a risk to the public health and safety.

⁵ Currently, California has only 13 refineries that produce fuels for the California market.

⁶ The CEC’s experience has been that electric vehicles tend to lack the speed and size necessary for emergency vehicles. Methanol-powered vehicles have been of limited application for police vehicles because of “crash-worthiness” concerns.

I. THE CRITERIA ARTICULATED IN THE DECISION ARE MORE RESTRICTIVE THAN STATUTORY LAW

The Decision notes that the “existing justification for customer eligibility as an essential customer is almost exclusively based on public health and safety...”⁷ The Decision also seems to indicate that public health and safety is *the* factor and the *only* factor that the Commission will consider. The standard set forth in the Decision is that the customer must show that inclusion in a rotating outage “presents unacceptable jeopardy, or imminent danger, to public health and safety”⁸ The Decision notes that the jeopardy must be “beyond economic harm or inconvenience to the customer.”⁹ The CEC agrees that economic harm to an individual customer should not be a criterion for granting exemption from mandatory curtailment. However, economic harm to the people of California is sufficiently serious to justify such an exemption.

Public Utilities Code Sections 2771 and 2772 require the Commission to establish priorities among customers of electricity corporations. In establishing these priorities, the Commission shall include, but not be limited to, a consideration of which customers “provide the most important public benefits and serve the greatest public need.”¹⁰ By implication, the Commission is also

⁷ Decision, p. 2

⁸ Id. at 3.

⁹ It is unclear whether the phrase is properly read as “economic harm to the customer” or economic harm to the public at large

¹⁰ PU Code Section 2772(a). Emphasis added.

supposed to consider the “economic, social and other effects of a temporary discontinuance in electrical...service.”¹¹

The criterion in the Decision of “public health and safety” is arguably more restrictive than “public benefits and . . . public need.” It is clearly narrower than a criterion that recognizes economic and social effects.

Subjecting the fossil fuel infrastructure to mandatory curtailments increases the potential for a broader energy crisis. Shortages of gasoline, diesel and aviation fuels would have a profound impact on the state’s economy and ultimately threaten national security.

Section 25350(a) of the Public Resources Code states:

The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.

To reiterate, the CEC believes that subjecting the state’s fossil fuel infrastructure, including refineries and associated ancillary services,¹² to unplanned outages would have a devastating effect on the production, availability

¹¹ PU Code Section 2772(c).

¹² Associated ancillary services are those facilities located outside the refinery gate that are essential to the continued operation of the refinery. Continuous refinery operations depend on these facilities to either provide an essential service to the refinery (such as a hydrogen plant) or perform a vital outlet for the refinery (such as a sulfur plant or polypropylene plant). Even if the refinery could be isolated from electric power curtailment, loss of any of these associated ancillary services would force the refinery to cease operations.

and price of gasoline, diesel, and aviation fuels. These fuels are critical to the state's economy. Unlike a shutdown of a retail establishment, the shutdown of a refinery can have extreme consequences. There is an essential nature to fuel, which justifies its being given essential customer status.

III. THE COMMISSION SHOULD GRANT “ESSENTIAL CUSTOMER” STATUS TO ANY CATEGORY OF CONSUMER WHO CAN MAKE COMPELLING ECONOMIC ARGUMENTS.

While the fossil fuel infrastructure is of vital importance to California's economy, it is possible that other categories of consumers may be similarly situated. That is, there may be other manufacturing or agricultural operations for which electricity curtailment has a sudden, disruptive and long-lasting effect that results in severe economic damage.

The CEC urges the Commission to adopt an economic standard by which applications for the essential customer class can be evaluated. While the public health and safety of California's residents and workers have the highest priority in the formulation of state policy, the CEC believes that the economic consequences of state policy also deserve close consideration. In addition, recognition of this criterion would be consistent with Public Utilities Code Sections 2771 and 2772.

IV. CONCLUSION

For the reasons noted above, the CEC urges the commission to expand the "essential customer" classification to all fossil fuel infrastructure. This is consistent with prior Commission decisions, legislative intent, and statutory mandate. The CEC also urges the Commission to develop an economic standard to apply to other categories of customers for whom curtailment would spell economic disaster.

The CEC appreciates this opportunity to provide its comments.

Respectfully submitted

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